

## An odyssey in defense of the press before judiciary

Written by

Sunday, 01 April 2012 11:49 -

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Jakarta Post, August 10'2009

It was about 5 p.m on April 16 when a journalist called me and informed me that the Supreme Court had, ruled in favor of Time magazine in the review of its decision in a case lodged by the Soeharto family. Time has fought this cause to the bitter end, and its odyssey in pursuit of justice finally yielded its due merits.

Here was the climax of Time's struggle that took 10 years since Soeharto launched his suit on July 2, 1999. To the media, I assert that this judgment is nothing but final.

The legal reasoning underlying the Supreme Court's decision is very simple indeed, i.e. that Time had afforded Soeharto's party the right to 'respond, which was, published in the magazine's May 24, 1999 edition. Furthermore, it was found, the Time report in question did not breach applicable codes of ethics for journalism. These two reasons paralyzed the charges that Time failed to comply with Article 1365 of the Indonesian Civil Code.

Suffice it to say the judgment has managed to establish the legal edifice that as far as the press is concerned, the applicable legal regime is Chiefly the Press Law and the jour-realism code of ethics. The present judgment has come. in line with the Supreme Court Circular issued earlier this year, by Chief Supreme Court Justice Harifin'Tumpa, which in essence states that press cases must be considered and judged in the context of the Press Law.

In reflecting on the journey of the case, it may be useful to take a look back at, the Central Jakarta District Court's May 31, 2000 decision. The decision was in favor of Time, rejecting entirely Soeharto's charges against the magazine. There were many interesting legal outcomes of the court's ruling. It can be concluded from its decision that so long as a report by the press does not have malicious intent or "reckless disregard for the subject it does not qualify as defamation. The Jakarta High Court affirmed the Central Jakarta District Court's decision by upholding all of the District Court's legal considerations, after which Soeharto submitted a final appeal to the Supreme Court. And here the case. lay dormant for about six years. We do not know what happened, except to say that one day in 2007 the Supreme Court made a decision that rescinded the decisions made by the Jakarta High and Central Jakarta District Courts.

The Supreme Justices serving on the bench of the final appeal, presided over by Associate Supreme Justice German Hudiarto, concluded that Time had defamed Soeharto in the

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magazine's report entitled "Soeharto Inc.: How Indonesia's Long-time Boss Built a Family Fortune". Time; was ordered to place apologetic statement in various local and foreign media outlets and pay Rp 1 trillion (US\$ 100 million) in damages.

The campaign culminated in our submission of Time's application for an official review of the judgment to the Supreme Court. In the application's brief we argued that the Supreme Court's judgment was manifestly erroneous.

We contended that the Supreme Court bench had failed to appreciate that press cases must be considered and judged with regards to the Press Law. We repeated quite a number of our arguments at the Central Jakarta District Court and went further by inserting the latest developments in democracy and the international legal environment concerning the press.

Owing to the review of the judgment, the Supreme Court will, go awn in history as, one that re-af firms our nation's commitment to freedom of the press: It leaves us with no; doubt to say that, simple though it maybe, the judgment will be recorded in the history of, the press, not only Indonesia's but also the world's, with golden ink.

It is certainly proper for us to thank the Supreme Court, which has restored our nation's repute before the international community by virtue of this enlightened judgment appears that at the end of the tunnel, there is a candle guiding our way forward.

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